IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.26 OF 1988.

Mrs.Snehalata Moreshwar
Lokegaonkar : Appellant.

versus

Union of India : Respondent.

Mr.N.M.Soman for the appellant.
Mr.A.N.Samant for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 7th June 2005.

ORAL ORDER

1. Heard advocates for the appellant and respondent. This appeal is filed by the original claimant for enhancement of compensation. She suffered in an accident while travelling in a railway train. The injuries suffered by her in the accident were of temporary nature and simple injuries. The injuries did not result in

depriving the applicant of her capacity to work. It was noted by the Doctor that she had pain, swelling and stiffness of the fingers, wrist of the right hand and she was advised leave for six weeks. Then she was given physic therapy to mobilize her fingers, wrist and shoulder but there was some residual stiffness. She was subjected to X-ray but the same did not reveal any fracture. The injuries were being soft tissue injuries. She was working as a clerk in NCC Office Department. Therefore, considering the nature of injuries and the suffering, the tribunal awarded Rs.6000/-. Hence this appeal.

2. The counsel for the appellants relied upon the judgment of the Supreme Court reported in **(2002) 4 SCC 306 [N. Parameswaran Pillai and another v. Union of India and anr.]**. At the out set Mr.Samant contended that this judgment is not applicable because it was under the specific rules i.e. Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 and secondly, that was a case of fatal accident resulted in death. I have gone through the judgment. It lays down that the Claims Tribunal must consider what the Rules prescribed at the

time of making the order for payment of the compensation. Therefore, looking to the nature of injuries suffered, the appeal can be allowed only partly and in stead of Rs.6000/-, the railway can be directed to pay Rs.10,000/- as compensation. Hence the order :-

:ORDER:

The appeal is partly allowed.

Respondent to pay Rs.4000/- in addition i.e. in all Rs.10,000/- to the appellant/claimant.

Additional amount of Rs.4,000/- to be deposited by the railway in this Court within six weeks. If not deposited within the said time, the amount will carry interest at 9% p.a.

No order as to costs.

[D.G.DESHPANDE]

07/06/2005 JUDGE.